

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

March 7, 2016 at 10:00 a.m.

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| 1. | 13-23517-A-7 TRACY GATEWAY, L.L.C.
15-2065
FUKUSHIMA V. APOLLO EQUITY, L.L.C. | ORDER TO
APPEAR FOR EXAMINATION
(YVONNE LAU)
1-20-16 [39] |
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Tentative Ruling: None. The respondent shall appear prior to the start of the 10:00 a.m. calendar to be sworn in for the examination.

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| 2. | 13-23517-A-7 TRACY GATEWAY, L.L.C.
15-2065
FUKUSHIMA V. APOLLO EQUITY, L.L.C. | ORDER TO
SHOW CAUSE
1-12-16 [38] |
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Tentative Ruling: The court issued this order to show cause because Apollo Equity, L.L.C. did not appear for an examination on January 11, 2016. The examination was continued to February 22, 2016 at 10:00 a.m. and then to March 7, 2016 at 10:00 a.m.

At the March 7 hearing, the court will consider assessing sanctions against Apollo if it determines that Apollo willfully failed to obey the court's November 13, 2015 order to appear at the January 11, 2016 examination.

If Apollo fails to appear on March 7, the court also will consider sanctions to compel attendance at an examination and production of records, including authorizing the apprehension of a representative of Apollo by the U.S. Marshall to compel such attendance and production.

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| 3. | 13-23517-A-7 TRACY GATEWAY, L.L.C.
15-2065
FUKUSHIMA V. APOLLO EQUITY, L.L.C. | ORDER TO
APPEAR FOR EXAMINATION
(APOLLO EQUITY, LLC)
11-13-15 [36] |
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Tentative Ruling: None. A responsible individual for the judgment debtor, Apollo Equity, L.L.C., shall appear prior to the start of the 10:00 a.m. calendar to be sworn in for the examination.

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| 4. | 14-30833-A-11 SHASTA ENTERPRISES | STATUS CONFERENCE
10-31-14 [1] |
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Tentative Ruling: None.

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| 5. | 14-30833-A-11 SHASTA ENTERPRISES
FWP-22 | MOTION TO
SELL AND TO PAY
2-8-16 [447] |
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Tentative Ruling: The motion will be granted.

March 7, 2016 at 10:00 a.m.

The chapter 11 trustee requests authority to sell "as is and where is" for \$49,900 in cash the estate's interest in 14.99 acres of bare land in Redding, California, to Chuck Higgs. The property has been marketed for over a year. But for \$200 in outstanding property taxes, the property is unencumbered.

The trustee requests:

(1) authority to pay outstanding (\$200) and prorated prospective property taxes out of escrow, along with the estate's escrow and closing costs and expenses;

(2) authority to pay an incentive bonus under a court-approved incentive agreement to Mr. Cretaro in the amount of no more than \$2,500, subject to an increase in the event of an overbid; and

(3) a waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

As the parties are not represented by realtors, no realtor commission will be paid in connection with this sale.

While the property is not subject to any other monetary encumbrances, it is nonetheless subject to non-monetary encumbrances, such as easements, dedications, notices and redevelopments. The sale is subject to such non-monetary encumbrances.

The estate estimates generating approximately \$46,500 from the sale.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for the estate and its creditors.

Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

The court will authorize payment of the incentive bonus to Mr. Cretaro. The court will waive the 14-day period of Rule 6004(h).

6.	11-34464-A-7 STUART SMITS 11-2636 BARDIS V. SMITS	ORDER TO APPEAR FOR EXAMINATION (STUART LANSING SMITS) 10-14-15 [61]
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Tentative Ruling: None. The judgment debtor shall appear and be sworn in prior to the 10:00 a.m. calendar and then the judgment creditor may examine the judgment debtor outside the courtroom.

7.	14-28468-A-11 BUALAI WHITE MRL-11	MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY 2-12-16 [202]
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Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor's counsel, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need

to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The debtor's counsel, Liviakis Law Firm, has filed a second and final motion for approval of compensation. The requested second interim compensation consists of \$9,000 in fees and \$0.00 in expenses. This motion also seeks final approval as to \$22,000 in fees and \$0.00 in expenses.

The court approved employment terms for the movant calling for a \$22,000 flat fee. Shortly after this case was filed on August 21, 2014, the movant also sought approval of the entire flat fee. The court, however, approved only \$13,000 in interim compensation. Dockets 19, 37, 39.

The services in this case cover the period from August 21, 2014 through December 9, 2015, when the debtor's plan was confirmed. The court approved the movant's employment as the chapter 11 debtor's attorney on October 2, 2014. Docket 38. The movant's services consist of 55.2 hours of attorney time.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

The movant's services included, without limitation: (1) analyzing estate asset issues, (2) preparing for and attending the IDI and meeting of creditors, (3) communicating with the United States Trustee, (4) preparing and reviewing pleadings and documents, such as motions and reports, (5) attending court hearings, (6) preparing, filing and prosecuting various motions (such as collateral valuation and plan confirmation), (7) preparing a chapter 11 plan and disclosure statement, (8) communicating with various parties about plan confirmation, (9) addressing responses to the plan and disclosure statement, (10) assisting the debtor in the preparation of operating reports, (11) reviewing and analyzing proofs of claim, (12) communicating with the debtor about various issues, and (13) preparing and filing employment and compensation motions.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

8. 14-28468-A-11 BUALAI WHITE
MRL-12

MOTION FOR
FINAL DECREE ETC
2-12-16 [208]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that

there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The debtor is asking the court to close the case and enter a final decree, contending that the plan was confirmed, that payments under the confirmed plan are being made, that all post-confirmation reports have been filed, and that there are no pending motions or adversary proceedings.

11 U.S.C. § 350(a) provides that "[a]fter an estate is fully administered and the court has discharged the trustee, the court shall close the case." Similarly, Fed. R. Bankr. P. 3022 provides that "[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case."

In the chapter 11 context, courts have defined full administration as substantial consummation. In re Wade, 991 F.2d 402, 406 n.2 (7th Cir. 1993) (citing In re BankEast Corp., 132 B.R. 665, 668 n.3 (Bankr. D.N.H. 1991)). Substantial consummation is defined by section 1101(2) as "(A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and (C) commencement of distribution under the plan."

This court confirmed the debtor's chapter 11 plan on December 9, 2015. The confirmation order is final. Docket 195. Property has reverted in the debtor.

Given that the debtor is current on the plan payments, that the debtor has continued to operate the business under the terms of the confirmed plan, and given that there are no outstanding motions or adversary proceedings, substantial consummation has been achieved. Accordingly, the court will enter a final decree and close the case. The motion will be granted.

9.	14-21184-A-7 SIMON RAMSUBHAG 14-2349 FUKUSHIMA V. SAHADEO ET AL	ORDER TO APPEAR FOR EXAMINATION (RAY SAHADEO) 11-13-15 [32]
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Tentative Ruling: None. The respondent shall appear prior to the start of the 10:00 a.m. calendar to be sworn in for the examination.

10.	14-21184-A-7 SIMON RAMSUBHAG 14-2349 FUKUSHIMA V. SAHADEO ET AL	ORDER TO SHOW CAUSE 1-29-16 [38]
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Tentative Ruling: The court issued this order to show cause because Ray Sahadeo did not produce documents or appear for an examination on January 25, 2016. The examination was continued to February 22, 2016 at 10:00 a.m. and then to March 7, 2016 at 10:00 a.m.

At the March 7 hearing, the court will consider assessing sanctions against Ray Sahadeo if it determines that Ray Sahadeo willfully failed to obey the court's November 13, 2015 order to appear at the January 25, 2016 examination.

If Ray Sahadeo fails to appear on March 7, the court also will consider sanctions to compel attendance at an examination and production of records, including authorizing the apprehension of Ray Sahadeo by the U.S. Marshall to compel such attendance and production.